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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,699	06/24/2001	Elias Bergan	CH920000036US1(590.060)	8705
35195	7590	08/31/2004	EXAMINER	
FERENCE & ASSOCIATES			BELL, MELTIN	
400 BROAD STREET			ART UNIT	
PITTSBURGH, PA 15143			PAPER NUMBER	

2121

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/888,699

Applicant(s)

BERGAN ET AL.

Examiner

Meltin Bell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This action is responsive to application **09/888,699** filed 06/24/2001 as well as the Information Disclosure Statement, Specification Corrections and Amendment filed 5/12/04. Claims 1-36 filed by the applicant have been entered and examined. An action on the merits of claims 1-36 appears below.

#### ***Priority***

Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an application for patent filed in the United States may be entitled to the benefit of the filing date of a prior application filed in a foreign country.

Acknowledgment is made of applicant's claim for foreign priority based on application 00113438.6 filed in Europe on **6/24/00**.

#### ***Claim Interpretation***

Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. > E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily).< In re

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Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.").

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-36 stand rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims (e.g. "network", "objects", "pointers", "units", "modules", "element", "connection") raise a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. For example, if claim 1 was amended to recite a computer-implemented method, it will be statutory in

most cases since use of technology permits the function of the descriptive material to be realized.

## **RESPONSE TO APPLICANTS' AMENDMENT REMARKS**

### ***Priority***

Applicant(s) argue(s) that the differences set forth in the prior office action, such as the shading of item 43.2 in Fig. 4F, are of no moment (Amendment REMARKS page 14, paragraph 2).

Given the clarification that network elements can have more than one representation (Amendment REMARKS page 15, paragraph 1), Applicant's arguments are persuasive.

### ***Information Disclosure Statement***

The information disclosure statement filed 5/12/04 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because of missing or inaccurate information in the listing:

- An English translation of the Schult reference
- The DE 1990082041.9 reference

It has been placed in the application file. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements

based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

### ***Drawings***

Applicant(s) argue(s) that the drawings objections are obviated by a review of the application (Amendment REMARKS page 15, paragraph 1).

Applicant's arguments are persuasive and the objections are withdrawn.

### ***Specification***

Applicant(s) argue(s) that the specification has been amended to correct a number of the asserted informalities and that the language on page 11, line 7 is appropriate (Amendment REMARKS page 15, paragraph 2).

Amendments to the specification (page 18, line 5, page 20, line 15, page 21, line 4, page 22, line 9, page 34, lines 4-8) have been entered and examined. Applicant's arguments are persuasive and the remaining specification objections are withdrawn.

### ***Claim Rejections - 35 USC § 112, first paragraph and 35 USC § 101***

Applicant(s) requests clarification on the 35 USC 101 and 112, first paragraph rejections of the prior office action (Amendment REMARKS page 16, paragraph 1).

Clarification is given above for the 35 USC 101 rejections. The 35 USC 112, first paragraph rejections are withdrawn.

***Claim Rejections - 35 USC § 102 and 35 USC § 103***

The rejections of the claims under 35 USC 102 and 103 are withdrawn.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- *Oatman et al*; USPN 5,995,955; "System and method for expert system analysis using quiescent and parallel reasoning and set structured knowledge representation"
- *Roche et al*; USPN 5,535,121; "System for correcting auxiliary verb sequences"



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Any inquiry concerning this communication or earlier communications from the Office should be directed to Melvin Bell whose telephone number is 571-272-3680. This Examiner can normally be reached on Mon - Fri 7:30 am - 4:30 pm.

If attempts to reach this Examiner by telephone are unsuccessful, his supervisor, Anthony Knight, can be reached on 571-272-3687. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MB *[Handwritten initials]*

*[Handwritten signature]*  
Anthony Knight  
Supervisory Patent Examiner  
Group 3600